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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/699,945	11/03/2003	Andreas Marettek	IT20020047	4337
173	7590	12/06/2006	EXAMINER	
WHIRLPOOL PATENTS COMPANY - MD 0750 500 RENAISSANCE DRIVE - SUITE 102 ST. JOSEPH, MI 49085			HECKERT, JASON MARK	
			ART UNIT	PAPER NUMBER
			1746	

DATE MAILED: 12/06/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/699,945	MARETTEK, ANDREAS
	<b>Examiner</b>	<b>Art Unit</b>
	Jason Heckert	1746

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 01 November 2006.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-15 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-6,8-10,14 and 15 is/are rejected.
- 7) Claim(s) 7, 11-13 is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.
 

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |  |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                 | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                        | 5) <input type="checkbox"/> Notice of Informal Patent Application                        |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____. | 6) <input type="checkbox"/> Other: _____.  |

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments filed November 1, 2006 have been fully considered but they are not persuasive. Sargeant does disclose that an area below the circular pattern of the downwardly directed jets has a percentage of open area lower than other portions of the filter. The jets rotate in a plane above the filter. The central portion of Sargeant's filter plate has no open area, which is a percentage of open area less than the circular zone on its periphery. This peripheral zone is functionally equivalent to a side zone, as it surrounds the central zone on all sides. All of these zones are physically below the plane of the circular pattern of the jets. In regards to claim 4, the previous claims never distinctly claim holes must exist in the central portion. The central portion has no holes corresponding to an infinite pitch and therefore the side or peripheral zone has a lower pitch.

### ***Claim Objections***

2. Claim 9 objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. Claim 9 merely points to the intended use or function of the "second zone" described in claim 8, yet provides no further structural limitation of said component.

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1, 3, and 4 are rejected under 35 U.S.C. 102(b) as being anticipated by Sergeant et al. Sergeant discloses a dishwasher comprising a wash chamber, a pump for circulating wash fluid, and a spray bar with at least one downwardly directed jet (column 5 lines 8-18). In Fig. 36, Sergeant shows the downwardly directed jets 150 discharging water onto a perforated horizontal filter plate 104 (see Fig. 27). The perforations are in a circular pattern and do not uniformly cover the entire plate.

5. Filter plate 104 possesses no open area in its central portion, which is an area below the plane generated by the pattern of the downwardly directed jets. This filter plate also has a portion adjacent to the two semi-circular sides of the central portion with a larger percentage of open area than that of the central portion. These side zones have a plurality of holes with a greater frequency, corresponding to a lower pitch, than that of the central zone, which has an infinite pitch.

6. Claims 8-10 are rejected under 35 U.S.C. 102(b) as being anticipated by Thies et al. Thies et al. discloses a dishwasher with a pump 86 operated by motor 27, a wash tank 12, a spray arm 22 with at least one downwardly directed nozzle 40, and a horizontal filter 52 and 53 disposed in the path of the flow of water. Said filter (see Fig. 6) has holes in two zones. The left zone comprises an area with less percentage of

open area than the right zone and is capable of reducing an amount of air bubbles entrained in the circulating water. The filter plate is circular, with the second zone comprising part of that circle.

***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 5 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sargeant et al. Although Sargeant does not disclose dimensions of the filter plate perforations, it is well settled that determinations of optimum values of cause effective variables, such as perforation dimension and percentage open area, is within the skill of one practicing in the art since dimension and percentage open area would effect the size and amount of particle filtration. Therefore it would have been obvious to optimize such parameters in Sargeant with expectation of achieving the desired filtration unless there is a showing of unexpected results. *In re Boesch*, 205 USPQ 215 (CCPA 1980).

9. Claims 14 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Thies et al. Although Thies et al. does not disclose dimensions of the filter plate perforations, it is well settled that determinations of optimum values of cause effective variables, such as perforation dimension and percentage open area, is within the skill of one practicing in the art since dimension and percentage open area would effect the

size and amount of particle filtration. Therefore it would have been obvious to optimize such parameters in Thies et al. with expectation of achieving the desired filtration unless there is a showing of unexpected results. *In re Boesch*, 205 USPQ 215 (CCPA 1980).

***Allowable Subject Matter***

10. Claims 7, 11-13 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Claim 7 clearly states that the area of the filter with no open area *corresponds* to the circular pattern of the downwardly directed jet. Claim 11 clearly defines the location of the two side zones in relation to the central zone as well as the downwardly directed jet. These structural limitations are regarded as novel. Furthermore, they draw a connection between the filter plate and the *pattern of impinging water* directed from the downward jet.

***Conclusion***

11. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not

mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason Heckert whose telephone number is (571) 272-2702. The examiner can normally be reached on Mon. to Friday, 8:00 - 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Barr can be reached on (571)272-1414. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JMH



MICHAEL BARR  
SUPERVISORY PATENT EXAMINER